



The Comptroller General  
of the United States

Washington, D.C. 20548

# Decision

Matter of: Dunn and Sons Maintenance Corporation  
File: B-231072.2  
Date: July 7, 1988

## DIGEST

1. General Accounting Office will not consider a protest of an agency's request for second best and final offers where the protest was not filed prior to the date on which the second best and final offers were due.
2. As a general matter, an agency may reopen negotiations and request a second round of best and final offers when it is in the government's best interest to do so.

## DECISION

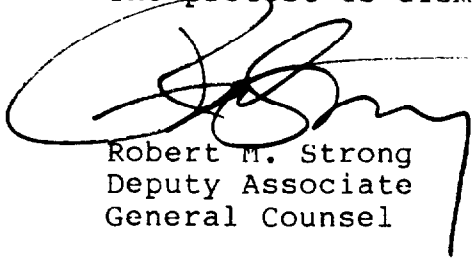
Dunn and Sons Maintenance Corporation protests the award of any contract under request for proposals No. N00140-88-R-0188 issued by the Department of the Navy for mess attendant services at the Earl Weapons Station, New Jersey. We dismiss the protest as untimely.

On March 21, 1988, Dunn and Sons submitted a best and final offer at the Navy's request. The Navy informed Dunn and Sons by telephone on May 25 that it required a second best and final offer. On June 6, Dunn and Sons contacted a contracting official and found that second best and final offers were due that day; therefore, Dunn and Sons telecopied its second best and final offer to the Navy. In its protest, filed on June 24, Dunn and Sons essentially claims that an agency generally should not be permitted to request a second best and final offer.

Under our Bid Protest Regulations, a protest of an impropriety in a request for best and final offers that is apparent prior to the due date for their receipt must be filed before that date. 4 C.F.R. § 21.2(a) (1988); see Pacific Instruments, Inc., B-228274, Oct. 21, 1987, 87-2 CPD ¶ 380. As Dunn and Sons filed its protest well after the June 6 due date, the protest is untimely.

Moreover, we point out that requests for second best and final offers are not per se improper as Dunn and Sons seems to suggest; a contracting officer may reopen negotiations and request a second best and final offer when it is clearly in the government's interest to do so. Federal Acquisition Regulation § 15.611(c) (FAC 84-16); Carolina Auto Processing, B-226841, July 2, 1987, 87-2 CPD ¶ 8.

The protest is dismissed.



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